

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JOHN L. WAGER, JR.,

Petitioner,

v.

No. 9:08-CV-432
(FJS/RFT)

JAMES CONWAY, *Superintendent*,

Respondent.

APPEARANCES:

OF COUNSEL

JOHN L. WAGER, JR.
Petitioner, Pro Se
92-B-1683
Attica Correctional Facility
Box 149
Attica, N.Y. 14011

FREDERICK J. SCULLIN, JR., S.D.J.:

DECISION AND ORDER

The above-captioned matter having been presented to me by the Report-Recommendation and Order of Magistrate Judge Randolph F. Treece filed May 30, 2008 and the Court having reviewed the Report-Recommendation and the entire file in this matter, and no objections to said Report-Recommendation and Order having been filed, the Court hereby

ORDERS that the Report-Recommendation and Order of Magistrate Judge Randolph F. Treece filed May 30, 2008 is, for

the reasons stated therein, **ACCEPTED** in its entirety; and the Court further

ORDERS that Petitioner file with the Court, **within thirty (30) days** from the date of this Order, an amended petition which sets forth all the appeals he has taken relative to his convictions, the dates on which each was filed and decided, and the dates on which his motions, pursuant to CPL § 440 were filed and decided, both in the trial court and in the appellate courts, and the Court further

ORDERS, that said amended petition be written in full compliance with Rule 2 of the Rules Governing Section 2254 cases in the U.S. District Courts as detailed above. Petitioner should clearly state why he believes the Appellate Division erred in entering the judgment for the lesser-included offense and how his conviction was obtained through a miscarriage of justice. Also, the Clerk of the Court is directed to provide Petitioner with a blank § 2254 *habeas* petition for his use in complying with the Report-Recommendation, and the Court further

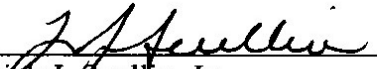
ORDERS, that if the Petitioner fails to file such an amended petition **within thirty (30) days** from the date of this order, the instant action is **DISMISSED** without further order of this Court due to Petitioner's failure to comply herewith, and the Court further

ORDERS, that upon full compliance by the Petitioner with the Report-Recommendation as directed above, the file in this matter

will be returned to the Court for further review.

IT IS SO ORDERED.

Dated: Syracuse, New York
June 25, 2008



Frederick J. Scullin, Jr.
Senior United States District Court Judge